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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0590-IWD-E **TCEQ ID:** RN102145257 **CASE NO.:** 33221
RESPONDENT NAME: Chemicals Incorporated

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Hatcherville Plant, Adjacent to the west side of Hatcherville Road, approximately 1,400 feet north of the intersection of Farm-to-Market Road 1942 and Hatcherville Road, approximately two miles west of the City of Mont Belvieu, Chambers County</p> <p>TYPE OF OPERATION: Organic chemical manufacturing and processing facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Stephen E. Rohde, General Manager, Chemicals Incorporated, 12321 Hatcherville Road, Baytown, Texas 77521 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review Date(s) of Complaints Relating to this Case: None Date of Investigation Relating to this Case: March 1, 2007 Date of NOE Relating to this Case: April 4, 2007 (NOE) Background Facts: This was a routine investigation. One violation was documented. WASTE Failure to comply with permitted effluent limitations. Specifically, the Respondent has exceeded the effluent limitations for Total Mercury Average Limit (0.0020 mg/L) for the months of August 2006 (0.0077 mg/L) and November 2006 (0.0059 mg/L), and for Total Mercury Maximum Limit (0.0040 mg/L) for the months of August 2006 (0.0077 mg/L) and November 2006 (0.0059 mg/L) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0003713000, Effluent Limitations and Monitoring Requirement No.1].	Total Assessed: \$2,780 Total Deferred: \$556 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay SEP Conditional Offset: \$0 Total Paid to General Revenue: \$2,224 Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Applicable Penalty Policy: September 2002	Corrective Actions Taken: The Executive Director recognizes that the Respondent has implemented additional sampling protocol and oversight at the Facility and returned to compliance with the permitted effluent limits on December 31, 2006.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES

Assigned

9-Apr-2007

PCW

17-Apr-2007

Screening

16-Apr-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Chemicals Incorporated

Reg. Ent. Ref. No. RN102145257

Facility/Site Region 12-Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 33221

Docket No. 2007-0590-IWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 1

Order Type 1660

Enf. Coordinator J. Craig Fleming

EC's Team Enforcement Team 4

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

64% Enhancement

Subtotals 2, 3, & 7

\$1,280

Notes

A 64% enhancement is recommended for having four NOV's for self-reported effluent data, two NOV's for non-similar violations, and two agreed orders containing a denial of liability.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25% Reduction

Subtotal 5

\$500

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent came into compliance on December 31, 2006.

0% Enhancement*

Subtotal 6

\$0

Total EB Amounts

\$21

Approx. Cost of Compliance

\$1,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$2,780

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment

\$0

Notes

Final Penalty Amount

\$2,780

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$2,780

DEFERRAL

20%

Reduction

Adjustment

-\$556

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,224

Screening Date 16-Apr-2007

Docket No. 2007-0590-IWD-E

PCW

Respondent Chemicals Incorporated

Policy Revision 2 (September 2002)

Case ID No. 33221

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102145257

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	4	20%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 64%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

A 64% enhancement is recommended for having four NOVs for self-reported effluent data, two NOVs for non-similar violations, and two agreed orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 64%

Screening Date 16-Apr-2007

Docket No. 2007-0590-IWD-E

PCW

Respondent Chemicals Incorporated

Policy Revision 2 (September 2002)

Case ID No. 33221

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102145257

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0003713000, Effluent Limitations and Monitoring Requirement No. 1

Violation Description

Failed to comply with permitted effluent limitations. Specifically, Chemicals Incorporated has exceeded the effluent limitations for Total Mercury Average Limit (0.0020 mg/L) for the months of August 2006 (0.0077 mg/L) and November 2006 (0.0059 mg/L), and for Total Mercury Maximum Limit (0.0040 mg/L) for the months of August 2006 (0.0077 mg/L) and November 2006 (0.0059 mg/L).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate the impact of mercury contamination to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$2,780

This violation Final Assessed Penalty (adjusted for limits) \$2,780

Economic Benefit Worksheet

Respondent Chemicals Incorporated
Case ID No. 33221
Reg. Ent. Reference No. RN102145257
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	1-Aug-2006	31-Dec-2006	0.4	\$21	n/a	\$21

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required was the date the noncompliances started. The Final Date was the date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$1,000

TOTAL

\$21

Compliance History

Customer/Respondent/Owner-Operator: CN600591382 Chemicals Incorporated Classification: AVERAGE Rating: 1.28

Regulated Entity: RN102145257 HATCHERVILLE PLT Classification: AVERAGE Site Rating: 2.57

ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXD137554606
 INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE 37520
 WASTEWATER REGISTRATION # (SWR)
 WASTEWATER EPA ID TX0118427
 WASTEWATER PERMIT WQ0003713000
 WASTEWATER PERMIT WQ0003713000
 WASTEWATER PERMIT TPDES0118427
 WASTEWATER PERMIT TX0118427

Location: Adjacent to the west side of Hatcherville Road, Rating Date: September 01 06 Repeat Violator: NO
 approximately 1400 feet north of the intersection of
 Farm-to-Market Road 1942 and Hatcherville Road,
 approximately two miles west of the City of Mont
 Belvieu, Chambers County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 12, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 12, 2002 to April 12, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: J. Craig Fleming Phone: (512) 239-5806

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A Effective Date: 07/21/2003 ADMINORDER 2002-1417-IWD-E
 Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121

Rqmt Prov: ELMR 1 PERMIT
 Description: Failed to comply with effluent limits.

Effective Date: 03/11/2005 ADMINORDER 2004-0662-IHW-E
 Classification: Major

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)
 30 TAC Chapter 335, SubChapter E 335.112(a)(9)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii)
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.193(a)(1)
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.193(e)(1)

Description: Secondary containment failed the design volume requirement.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/13/2002	(232950)
2	06/14/2002	(232952)
3	06/27/2002	(IE0018705001001)
4	07/19/2002	(232953)
5	07/22/2002	(232948)
6	08/19/2002	(232954)
7	08/27/2002	(8392)
8	09/10/2002	(232955)
9	10/04/2002	(232956)
10	11/25/2002	(232957)
11	12/06/2002	(232958)
12	01/09/2003	(232959)
13	02/10/2003	(232945)
14	02/11/2003	(21903)
15	03/18/2003	(232947)
16	04/10/2003	(232949)
17	05/07/2003	(232951)
18	06/05/2003	(326856)
19	07/21/2003	(326857)
20	08/05/2003	(326858)
21	09/04/2003	(142007)
22	09/10/2003	(326859)
23	10/07/2003	(326860)
24	11/06/2003	(326861)
25	11/17/2003	(253206)
26	12/08/2003	(326862)
27	01/05/2004	(326863)
28	02/17/2004	(326853)
29	03/08/2004	(326854)
30	04/02/2004	(326855)
31	05/03/2004	(366758)
32	06/07/2004	(366759)
33	07/09/2004	(366760)
34	08/04/2004	(366761)
35	09/20/2004	(366762)
36	10/04/2004	(366763)
37	11/08/2004	(389895)
38	12/03/2004	(389896)
39	01/18/2005	(389897)
40	02/04/2005	(427412)
41	03/18/2005	(427413)
42	04/13/2005	(427414)
43	05/23/2005	(427415)
44	06/09/2005	(427416)
45	08/15/2005	(447474)
46	09/09/2005	(447475)
47	10/10/2005	(492314)
48	11/07/2005	(492315)
49	12/07/2005	(492316)
50	01/09/2006	(492317)
51	02/06/2006	(492312)
52	03/08/2006	(492313)
53	04/05/2006	(506197)
54	05/22/2006	(506198)
55	06/09/2006	(506199)
56	07/10/2006	(528445)
57	08/04/2006	(528446)
58	09/12/2006	(528447)
59	09/12/2006	(487783)
60	10/06/2006	(515091)

61 10/16/2006 (551812)
 62 11/06/2006 (551813)
 63 12/18/2006 (551814)
 64 04/05/2007 (542710)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	10/31/2002	(232957)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/11/2003	(21903)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.6(c)[G]			
Description:	Notification for NOR changes is required.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)			
Description:	Tank assessment and certification are required.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)			
Description:	Liner and concrete coating maintenance is required for cracks and gaps..			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)			
Description:	Leak detecting system for the hazardous waste tank is required.			
Date:	02/28/2003	(232947)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2006	(528447)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/12/2006	(487783)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)			
Rqmt Prov:	PERMIT 03713-000			
Description:	Failure to analyze the hexavalent chromium samples within the holding time.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.6 30 TAC Chapter 319, SubChapter A 319.9(c)			
Description:	Failure to provide Quality Assurance/Quality Control (QA/QC) records, as required.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT 03713-000			
Description:	Failure to report the minimum analytical level (MAL) for Hexavalent Chromium, Total Copper, Total Selenium, and Total Silver.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT 03713-000			
Description:	Failure to submit a compliance schedule to meet the Water Quality Based Effluent Limits for Hexavalent Chromium, Total Copper, Total Selenium, and Total Silver which will come into effect on 04/01/2008.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Rqmt Prov:	PERMIT 03713-000			
Description:	Failure to submit a report summarizing the fecal coliform sample results.			
Date:	11/30/2006	(551814)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			

	Description:	Failure to meet the limit for one or more permit parameter
F.	Environmental audits.	
	N/A	
G.	Type of environmental management systems (EMSs).	
	N/A	
H.	Voluntary on-site compliance assessment dates.	
	N/A	
I.	Participation in a voluntary pollution reduction program.	
	N/A	
J.	Early compliance.	
	N/A	

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CHEMICALS INCORPORATED
RN102145257**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0590-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Chemicals Incorporated ("CI") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and CI appear before the Commission and together stipulate that:

1. CI owns and operates an organic chemical manufacturing and processing facility located adjacent to the west side of Hatcherville Road, approximately 1,400 feet north of the intersection of Farm-to-Market Road 1942 and Hatcherville Road, approximately two miles west of the City of Mont Belvieu, Chambers County, Texas (the "Facility").
2. CI has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and CI agree that the Commission has jurisdiction to enter this Agreed Order, and that CI is subject to the Commission's jurisdiction.
4. CI received notice of the violations alleged in Section II ("Allegations") on or about April 9, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by CI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Seven Hundred Eighty Dollars (\$2,780) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). CI has paid Two Thousand Two Hundred Twenty-Four Dollars (\$2,224) of the administrative penalty and Five Hundred Fifty-Six Dollars (\$556) is deferred contingent upon CI's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If CI fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require CI to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and CI have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that CI has implemented additional sampling protocol and oversight at the Facility and returned to compliance with the permitted effluent limits on December 31, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that CI has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, CI is alleged to have failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0003713000, Effluent Limitations and Monitoring Requirement No. 1, as documented during a record review conducted on March 1, 2007. Specifically, CI exceeded the effluent limitations for Total Mercury Average Limit (0.0020 mg/L) for the months of August 2006 (0.0077 mg/L) and November 2006 (0.0059 mg/L), and for Total Mercury Maximum Limit (0.0040 mg/L) for the months of August 2006 (0.0077 mg/L) and November 2006 (0.0059 mg/L).

III. DENIALS

CI generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that CI pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and CI's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Chemicals Incorporated, Docket No. 2007-0590-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon CI. CI is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against CI in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to CI, or three days after the date on which the Commission mails notice of the Order to CI, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

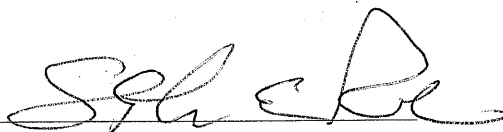
8/23/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

05/04/2007
Date

STEPHEN E. RONDE

Name (Printed or typed)
Authorized Representative of
Chemicals Incorporated

GENERAL MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

